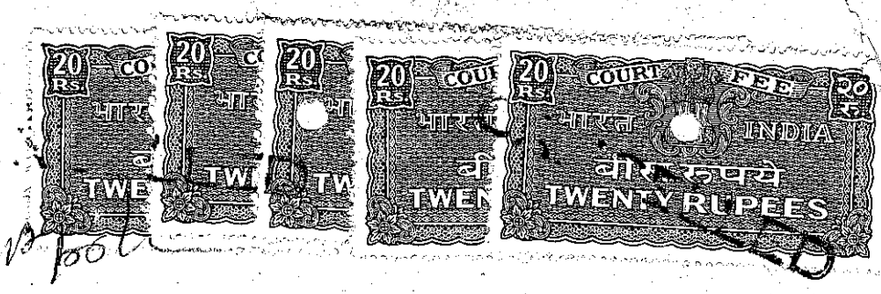

IN THE HIGH COURT OF JUDICATURE MADHYA PRADESH JABALPUR MP

Writ Petition No. 1131 of 1998

Petitioner: Mahendra Pratap Lal,
aged about 54 years,
son of late R.A.Lal,
Head Master, Middle School,
Jhagrakhand Colliery,
Tahsil Manendragarh,
District Sarguja, M.P.

Vs.

Respondents: (1) Eastern Coal-fields Limited,
through its Chairman-cum-
Managing Director, Seepat Road,
Bilaspur, District Bilaspur M.P.

(2) Singhi Colliery Education Society,
North Jhagrakhand, District Sarguja
M.P.

Thr. its President.

(3) General Manager,
South Eastern Coal-fields Limited,
[illegible]deo Area,
[illegible]ict Sarguja -
[illegible]dent of Singhi Colliery
[illegible]tion Society.

(4) Joint Director,
Public Instruction, Ambikapur,
District Sarguja, M.P.

WRIT PETITION UNDER ARTS. 226/227 CONSTITUTION OF INDIA

DETAILS OF WRIT PETITION

1. Particulars of the petitioner:

As per cause title above.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

29

आदेश पत्रक

मामला क्रमांक W.P.No.1131/98 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	19/11/2001 Shri R.K.Gupta, learned counsel for the petitioner. Shri P.S. Koshy, learned counsel for respondents No.1 and 3. Shri Deep Kesharwani, learned counsel for respondent No.4. None for respondent No.2. Heard. Notices ~~are~~ were served to the respondents as per office note dated 25/04/1998. According to Shri Gupta respondent No.2 also is effectively represented inasmuch as respondent No3 the is concerned authority in the present matter. Be that as it may, the impugned order of termination was issued on 27/07/1996. Show cause notice was ordered to be issued on 17/03/1998 after the petitioner approached this Court. Shri Koshy representing respondents ~~No~~.1 and 3 submits that there was inordinate delay. It appears that Shri Koshy is right that the petitioner did not pursue the matter diligently whereas on the other hand Shri Gupta submits that in view of the impugned order of termination the petitioner had to rush to this writ Court to obtain immediate relief even avoiding the appellate authority prescribed under the relevant provisions of law.	

[पीछे देखिये

आदेश पत्रक (पुर्वानुबद्ध)

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

The writ petitioner was appointed as an Assistant Teacher on 10/09/1962. In 1982 he was given promotion to the post of Upper Division Teacher. Thereafter on 14/12/1987 the petitioner was appointed Head Master of Middle School. The petitioner was again confirmed in the said post of Head Master by order dated 17/05/1989.

On 29/06/1996 an office order was issued against the petitioner leveling several allegations. The petitioner replied to the allegations. However, without appointing any enquiry officer and without affording writ petitioner any opportunity of being heard and of leading evidence etc. the impugned order of termination (Annesure-P/5) was issued on 27/07/1996.

The Madhya Pradesh Ashaskiya Shikshan Sanstha (Adhyapakon Tatha Anya Karamchariyon Ko Padachyut Karne Sewa Se Hatane sambandhi Prakriya) Niyam, 1983 Prescribes the procedure for teachers and other employees. Rule 3 is as regards show cause notice to be issued to the delinquent employee. Rule 4 contemplates that the charges and statement of allegations to be supplied to the employee. Rule 5 is as regards submission of written statement. Rule 6 further contemplates inspection of

GRPRJ—FS/311—1/2001—50,000.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

60

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

records. This means that the teacher or other employee charged may seek permission for inspection of relevant records and documents for the purpose of preparing his defense. Rule 7 is as regards ~~For~~ appointment of enquiry officer.

According to Dr. N.K. Shukla, the provisions aforesaid may not be applicable to the present case in terms of Section 2 (e) of The Madhya Pradesh Ashaskiya Sikshan Sanstha (Adhyapakon Tatha Anya Karmchariyon Ke Vetano Ka Sandaya) Adhiniyam, 1978. Since it is a long pending case, I am of the view that instead of giving specific finding on this issue I would examine the manner in which the service of the writ petitioner came to be terminated after he had put in about 34 years of continuous service. Whether or not the above provisions in terms are applicable to the present writ petitioner, in my view the service of the writ petitioner could not have been terminated in the manner sought for to be done inasmuch as prima facie there was no enquiry as such. If that be so, the petitioner had absolutely no opportunity to defend himself before the order of termination was issued. In my view, on this count alone the petitioner should succeed even assuming that there

[पीछे देखिये

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

was some delay in approaching this Court under Article 226 of the Constitution of India. Further I am also of the opinion that violation of principles of natural justice cannot be done away with in the matter of employment of the writ petitioner. In this view of the matter whether or not the petitioner had file an appeal before the appellate authority, even if the aforesaid rules are applicable would not make any difference.

After hearing Shri Gupta, learned counsel for the petitioner, Shri Koshy, learned counsel for respondents ~~No.~~1 & 3 and Shri Deep Keshrawani, learned counsel for respondent No.4 and on perusal of the relevant documents, I am inclined to dispose of this petition, as follows:

For the reasons stated above the impugned order of termination issued on 27.07.1996 (Annexure - P/5) is set aside. The writ petitioner shall be reinstated forthwith. It is open to the competent authority to make enquiry against the writ petitioner. However, I shall make it clear that if enquiry is made, the entire proceeding of enquiry shall be completed at the earliest and at any rate not later than 31st March, 2002. If the enquiry as such is conducted, the back wages from the date of

GRPRJ—FS/311—1/2001—50,000.

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(81)

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	termination till the date of reinstatement shall depend on the result of the enquiry. Certified copy be given as per rules. Sd/- Chief Justice	